

ESTTA Tracking number: **ESTTA94866**

Filing date: **08/16/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Nakhla Tobacco Adel Ahmed El-Ibiary & Co.
Granted to Date of previous extension	09/13/2006
Address	3 Suliman Al-Halabi StreetAzbakiya Cairo, EGYPT

Attorney information	Stephen J. Quigley Abelman, Frayne & Schwab 666 Third Avenue New York, NY 10017-5621 UNITED STATES sjquigley@lawabel.com Phone:212-949-9022
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### Applicant Information

Application No	76043106	Publication date	05/16/2006
Opposition Filing Date	08/16/2006	Opposition Period Ends	09/13/2006
Applicant	Delta Trading Import and Export Corp. 6816 Fifth Avenue Brooklyn, NY 11220 UNITED STATES		

### Goods/Services Affected by Opposition

Class 034. All goods and sevicees in the class are opposed, namely: TOBACCO
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Attachments	Oppos NAKHLATEN.pdf ( 3 pages )(197934 bytes )
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Signature	/sjq/
Name	Stephen J. Quigley
Date	08/16/2006

NAKHLA TOBACCO ADEL AHMED EL-IBIARY & CO.,	:	
	:	
	:	
Opposer,	:	
	:	
v.	:	Serial No. 76/043,106
	:	
DELTA TRADING IMPORT AND EXPORT CORP.,	:	
	:	
Applicant.	:	
	:	

Nakhla Tobacco Adel Ahmed El-Ibiary & Co., a corporation organized and existing under the laws of Egypt, with an address at 3 Suliman Al-Halabi Street, Azbakiya, Cairo, Egypt (“Opposer”), believes that it will be damaged by the registration of the alleged mark NAKHLATEN DELTA, Application No. 76/043,106 filed on May 8, 2000 (“Applicant’s Mark”) by Delta Trading Import and Export Corp., a corporation organized and existing under the laws of the State of New York, with an address at 6816 Fifth Avenue, Brooklyn, New York 11220 (“Applicant”) for the goods “tobacco” in International Class 34. This application was published on May 16, 2006. Opposer, as a result, hereby opposes the registration of Applicant’s Mark.

1. Opposer is the owner of the mark NAKHLA TOBACCO (“Opposer’s Mark”) which has been continuously used in commerce in the United States in connection with tobacco long prior to the intent to use filing date of the opposed application.

2. Opposer owns the following United States Patent and Trademark Office trademark registrations:

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods</u>
NAKHLA TOBACCO	2,260,904	tobacco, in Intl. Class 34.
NAKHLA TOBACCO TWO APPLES and Design	2,976,522	manufactured tobacco, namely, molasses tobacco, in Intl. Class 34.
NAKHLA TOBACCO MOLASSES TOBACCO STRAWBERRY FLAVOUR and Design	2,976,523	manufactured tobacco, namely, molasses tobacco, in Intl. Class 34.

3. The component NAKHLATEN in Applicant's Mark is nearly identical to the component NAKHLA in Opposer's Mark.

4. The goods in Applicant's Mark are identical to the goods in Opposer's Mark.

5. The goods in Applicant's Mark are capable of being marketed through the same channels of trade and the same retail outlets to the same classes of prospective purchasers as the goods in Opposer's Mark.

6. Because Opposer's use of Opposer's Mark in commerce predates the intent to use filing date for Applicant's Mark, there is no issue of priority in this proceeding.

7. Applicant's Mark is confusingly similar to Opposer's Mark, and its use and registration is likely to deceive and to cause mistake or confusion among members of the public as to the source of Applicant's goods within the meaning of 15 U.S.C. §1052(d).

8. As a result of the foregoing, Opposer will be damaged within the meaning of 15 U.S.C. §1063.

WHEREFORE, Opposer prays that this opposition be sustained and that registration of Application Serial No. 76/043,106 be denied.

Dated: August 16, 2006

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Stephen J. Quigley", is written over a horizontal line.

Lawrence E. Abelman  
Stephen J. Quigley

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Attorneys for Opposer